

**SUPREME COURT MINUTES
WEDNESDAY, OCTOBER 26, 2005
SAN FRANCISCO, CALIFORNIA**

S014021	PEOPLE v. CARTER (DEAN PHILLIP) Rehearing denied
S014664	PEOPLE v. GRAY (MARIO L.) Rehearing denied
S019697	PEOPLE v. WARD (CARMEN) Rehearing denied
S023000	PEOPLE v. CARTER (DEAN PHILLIP) Rehearing denied Petition for rehearing denied. Opinion modified – no change in judgment.
S114778 D038707 Fourth Appellate District, Division One	SAN DIEGO COUNTY v. ACE PROPERTY Rehearing denied Request for modification denied. Kennard, and Werdegar, JJ., are of the opinion the petition should be granted.
S113295 B156216 Second Appellate District, Division Three	POWERINE OIL v. S.C. (CENTRAL NATL INS.) Opinion modified - no change in judgment
S136255 B178996 Second Appellate District, Division Five	WAGNER CONSTRUCTION v. PACIFIC MECHANICAL Petition for review granted Votes: George, C.J., Kennard, Baxter, Werdegar, Chin, and Moreno, JJ.

S137055

B169140 Second Appellate District,
Division Two

PEOPLE v. MEDINA

Petition for review granted; issues limited

The issues to be briefed and argued are limited to the following: (1) Can a defendant commit the crime of attempted kidnapping during the commission of carjacking (Pen. Code, § 664/209.5) by attempting to kidnap the victim in an *attempt* to commit a carjacking, or does the crime require the *completed* commission of the crime of carjacking in the course of an attempted kidnapping? (2) Are attempted kidnapping and attempted carjacking lesser included offenses of attempted kidnapping during the commission of carjacking?

Votes: George, C.J., Kennard, Baxter, Werdegar, Chin, and Moreno, JJ.

S136916

B175355 Second Appellate District,
Division Four

W. (T.), IN RE

Review granted/briefing deferred (rule 29.1)

Further action in this matter is deferred pending consideration and disposition of a related issue in *People v. Cage*, S127344 (see Cal. Rules of Court, rule 28.2(d)(2)), or pending further order of the court. Submission of additional briefing, pursuant to California Rules of Court, rule 29.1, is deferred pending further order of the court.

Votes: George, C.J., Kennard, Baxter, Werdegar, Chin, and Moreno, JJ.

S136922

A102915 First Appellate District,
Division Five

THE LIMITED STORES v. FRANCHISE TAX BD.

Review granted/briefing deferred (rule 29.1)

Request for judicial notice denied.

Further action in this matter is deferred pending consideration and disposition of a related issue in *General Motors Corp. v. Franchise Tax Board*, S127086 and *Microsoft Corp. v. Franchise Tax Board*, S133343 (see Cal. Rules of Court, rule 28.2(d)(2)), or

pending further order of the court.
Submission of additional briefing, pursuant to
California Rules of Court, rule 29.1, is
deferred pending further order of the court.

Votes: George, C.J., Kennard, Baxter,
Werdegar, Chin, and Moreno, JJ.

S133876

B182638 Second Appellate District,
Division Two

CIRCUS CIRCUS CASINOS v. S.C. (FELD)

Dismissed per rule 29.3(b), and remanded to CA 2/2

In light of the decision in *Snowney v. Harrah's Entertainment, Inc.* (2005) 35 Cal.4th 1054, review in the above-entitled matter is dismissed. (Cal. Rules of Court, rule 29.3(b).)

Votes: George, C.J., Kennard, Baxter,
Werdegar, Chin, and Moreno, JJ.

S120348**ANDREWS (JESSE) ON H.C.**

Petition for writ of habeas corpus denied

The petition for writ of habeas corpus is denied on the merits. Claims VII and VIII are also denied on the grounds that they are untimely and successive. (*In re Robbins* (1998) 18 Cal.4th 770, 780-781, *In re Clark* (1993) 5 Cal.4th 750, 767-768.) Petitioner's allegation in claim VIII that photographs were improperly admitted at trial is also denied on the ground that it could have been, but was not, raised on appeal. (*In re Harris* (1993) 5 Cal.4th 813, 825, fn. 3, 829-841, *In re Dixon* (1953) 41 Cal.2d 756, 759.)

S136094

E038501 Fourth Appellate District,
Division Two

THOMAS (PAUL ALLEN) ON H.C.

Petition for review denied

S136111

B183846 Second Appellate District,
Division Six

BROWN (RICHARD) ON H.C.

Petition for review denied

S136140

E037673 Fourth Appellate District,

BOONE (DONALD) ON H.C.

Petition for review denied

S136176E036598 Fourth Appellate District,
Division Two

FLORIO v. CITY OF ONTARIO

Petition for review denied

Chin, J., is of the opinion the petition should
be granted.**S136188**A109489 First Appellate District,
Division One

MOALEM (WILLIAM) ON H.C.

Petition for review denied

S136201D046633 Fourth Appellate District,
Division One

WALKER (G. DANIEL) v. S.C. (PEOPLE)

Petition for review denied

S136256

H028974 Sixth Appellate District

HOWARD (JERRY) ON H.C.

Petition for review denied

S136263B184056 Second Appellate District,
Division Three

SAULS (CALVIN EARL) ON H.C.

Petition for review denied

S136270

F048444 Fifth Appellate District

POPOV (ALEXEY) ON H.C.

Petition for review denied

S136285

H029077 Sixth Appellate District

HILL (MARK DOUGLAS) ON H.C.

Petition for review denied

S136293E038054 Fourth Appellate District,
Division Two

DEMAREST (WILLIAM) ON H.C.

Petition for review denied

S136335A110889 First Appellate District,
Division Five

YAMBAO (GERMAN) ON H.C.

Petition for review denied

S136403
H028754 Sixth Appellate District

NGO (VIET MIKE) ON H.C.
Petition for review denied

S136404
A105674 First Appellate District,
Division Five

REGENTS OF THE UNIVERSITY v. EAST
BAY MUNICIPAL UTILITY
Petition for review denied

S136406
B183168 Second Appellate District,
Division Four

ISLAND (ANDRE) ON H.C.
Petition for review denied

S136459
C050314 Third Appellate District

REED (ALONZO) ON H.C.
Petition for review denied

S136471
H027521 Sixth Appellate District

LOWE (MICHAEL) ON H.C.
Petition for review & depublication request denied

S136542
B179106 Second Appellate District,
Division Six

PEOPLE v. MARRON
Petition for review denied

S136556
F043462 Fifth Appellate District

PEOPLE v. RENTERIA
Petition for review denied

S136583
B183284 Second Appellate District,
Division Six

MURILLO v. S.C. (PEOPLE)
Petition for review denied

S136595
E034901 Fourth Appellate District,
Division Two

PEOPLE v. GALINDO
Petitions for review denied

S136630
B164338 Second Appellate District,
Division Eight

PEOPLE v. HUMPHREY
Petition for review denied

S136632

E036012 Fourth Appellate District,
Division Two

KWIKSET CORP v. CALIFORNIA REGIONAL
WATER QUALITY CONTROL BD.

Petition for review denied

S136634

H027913 Sixth Appellate District

PEOPLE v. SALAZAR

Petition for review & publication request denied

S136650

F044918 Fifth Appellate District

PEOPLE v. WILSON

Petition for review denied

Baxter, J., was recused and did not
participate.

S136662

A108273 First Appellate District,
Division Four

PEOPLE v. DICKSON

Petition for review denied

S136663

B175123 Second Appellate District,
Division Three

PEOPLE v. HOYOS

Petitions for review denied

denied without prejudice to any relief to
which defendant might be entitled after this
court decides *People v. Cage*, S127373.

S136692

F044500 Fifth Appellate District

PEOPLE v. GALVAN

Petition for review denied

S136698

B173340 Second Appellate District,
Division Seven

PEOPLE v. SANCHEZ

Petitions for review denied

S136710

B173238 Second Appellate District,
Division Seven

PEOPLE v. PERRINE (ALLISON)

Petition for review denied

S136712

A106034 First Appellate District,
Division One

PEOPLE v. CHANEY

Petition for review denied

Kennard, and Werdegar, JJ., are of the
opinion the petition should be granted.

S136719

B173331 Second Appellate District,
Division Five

PEOPLE v. BAUTISTA
Petitions for review denied

S136737

B177843 Second Appellate District,
Division Seven

PERRINE (ALLISON) ON H.C.
Petition for review denied

S136750

H025896 Sixth Appellate District

PEOPLE v. MARTINEZ
Petition for review denied

Kennard, and Chin, JJ., are of the opinion the
petition should be granted.

S136752

A102198 First Appellate District,
Division Four

PEOPLE v. MORALES
Petition for review denied

denied without prejudice to any relief to
which defendant might be entitled after this
court decides *People v. Cage*, S127373.

S136799

E036178 Fourth Appellate District,
Division Two

PEOPLE v. KEITH
Petition for review denied

S136816

C050139 Third Appellate District

FORD MOTOR COMPANY v. S.C. (GRAY)
Petition for review denied

S136874

B174131 Second Appellate District,
Division One

BELL v. BLUE CROSS OF CALIFORNIA
Petition for review & depublication request denied

Request for judicial notice granted to the
extent the material concerns standard
legislative history and California regulations.

S136912

E034877 Fourth Appellate District,
Division Two

PEOPLE v. WHITE
Petition for review denied

S136972

B185154 Second Appellate District,
Division One

EUROSURGICAL S.A. v. S.C. (ORTHOTEC LLC)
Petition for review denied

S137026

A103831 First Appellate District,
Division Three

PEOPLE v. BALDWIN
Petition for review denied

S137036

A105231 First Appellate District,
Division Four

250 LLC v. PHOTOPPOINT CORP.
Petition for review denied

S137038

B177832 Second Appellate District,
Division Seven

PEOPLE v. PERRINE (ALLISON)
Petition for review denied

S137077

G033470 Fourth Appellate District,
Division Three

TILLEY v. CZ MASTER ASSOCIATION
Petition for review denied

S137175

B170768 Second Appellate District,
Division Seven

LEGACY LONG DISTANCE INTL. v. GENERAL
COMM SERVICES LLC.
Petition for review denied

S137225

B171722 Second Appellate District,
Division Five

UNITY PICTURES CORP v. UNIVERSAL CITY
Petition for review denied

S137249

B174350 Second Appellate District,
Division Four

PEOPLE v. MUDICA
Petitions for review denied

S137321

B179310 Second Appellate District,
Division Six

PEOPLE v. GALAVIZ
Petition for review denied

S137323

B176766 Second Appellate District,
Division Eight

PEOPLE v. SMALL
Petition for review denied

S137324

H027313 Sixth Appellate District

PEOPLE v. SALDANA

Petition for review denied

S137325G032270 Fourth Appellate District,
Division Three

SALISBURY v. COUNTY OF ORANGE

Petition for review denied

S137326

F045667 Fifth Appellate District

PEOPLE v. KENNARD

Petition for review denied

S137328

F046453 Fifth Appellate District

PEOPLE v. DONALDSON

Petition for review denied

S137329B175487 Second Appellate District,
Division Four

PEOPLE v. ESTRADA

Petition for review denied

S137330B185355 Second Appellate District,
Division Three

HALE v. S.C. (PEOPLE)

Petition for review denied

S137333B180266 Second Appellate District,
Division Eight

PEOPLE v. WASHINGTON

Petition for review denied

S137334

F046628 Fifth Appellate District

PEOPLE v. BROWN

Petition for review denied

S137336

F045584 Fifth Appellate District

PEOPLE v. NELSON

Petition for review denied

S137340

C046425 Third Appellate District

PEOPLE v. DOUGLAS

Petition for review denied

S137343B185009 Second Appellate District,
Division Three

HALE v. S.C. (PEOPLE)

Petition for review denied

S137350

B181510 Second Appellate District,
Division Four

MUDICA (RICHARD DAVID) ON H.C.
Petition for review denied

S137364

A107289 First Appellate District,
Division One

PEOPLE v. JAMES
Petition for review denied

S137370

B179765 Second Appellate District,
Division Two

PEOPLE v. MOORE
Petition for review denied

S137371

B178382 Second Appellate District,
Division Four

PEOPLE v. CRICKS
Petition for review denied

S137372

B170614 Second Appellate District,
Division Eight

PEOPLE v. MEJIA
Petition for review denied

S137373

F045923 Fifth Appellate District

PEOPLE v. SWANSON
Petition for review denied

S137382

E036198 Fourth Appellate District,
Division Two

PEOPLE v. ROJAS
Petition for review denied

S137386

B177288 Second Appellate District,
Division Four

PEOPLE v. HERNANDEZ
Petition for review denied

S137387

H028033 Sixth Appellate District

PEOPLE v. BOUCK
Petition for review denied

S137391

B178905 Second Appellate District,
Division Five

PEOPLE v. BIGLOW
Petition for review denied

S137395

B177571 Second Appellate District,
Division Eight

PEOPLE v. MARTINES
Petition for review denied

S137401

A100196 First Appellate District,
Division Two

PEOPLE v. SARMENTO
Petition for review denied

S137403

D046538 Fourth Appellate District,
Division One

G. (MONICA) v. S.C. (SAN DIEGO COUNTY
HEALTH & HUMAN SERVICES AGENCY
Petition for review denied

S137406

A106575 First Appellate District,
Division Three

PEOPLE v. SARVER
Petition for review denied

S137409

B178858 Second Appellate District,
Division Six

PEOPLE v. WILLIAMS
Petition for review denied

S137411

C046042 Third Appellate District

PEOPLE v. SINGH
Petition for review denied

S137414

D045149 Fourth Appellate District,
Division One

BRANDWEIN, MARRIAGE OF
Petition for review denied

S137415

G034377 Fourth Appellate District,
Division Three

PEOPLE v. QUINATA
Petition for review denied

S137419

F046420 Fifth Appellate District

PEOPLE v. ROBERSON
Petition for review denied

S137425

A105602 First Appellate District,
Division Five

PEOPLE v. BRANDEN
Petition for review denied

S137453

H027847 Sixth Appellate District

PEOPLE v. TARANGO

Petition for review denied

S137455B174209 Second Appellate District,
Division Eight

PEOPLE v. TOLEDO

Petition for review denied

S137467

H028130 Sixth Appellate District

PEOPLE v. ENGLISH

Petition for review denied

S137471A104542 First Appellate District,
A106658 Division Five

SPROUL v. OAKLAND RAIDERS

Petition for review denied

S137481

C047083 Third Appellate District

PEOPLE v. MATHIS

Petition for review denied

S137488B178001 Second Appellate District,
Division Four

PEOPLE v. BEJINEZ

Petition for review denied

S137495B174626 Second Appellate District,
Division Eight

PEOPLE v. CENTENO

Petition for review denied

S137501B177380 Second Appellate District,
Division Eight

PEOPLE v. SIMMS

Petition for review denied

S137514E036125 Fourth Appellate District,
Division Two

PEOPLE v. TAPIA

Petition for review denied

S137538

F046082 Fifth Appellate District

PEOPLE v. MCKENZIE

Petition for review denied

S137879 D046711 Fourth Appellate District, Division One	REMEDY INTELLIGENT STAFFING v. S.C. (HESS) Petition for review and application for stay denied
S137966 B186127 Second Appellate District, Division Five	7-ELEVEN v. A.B.C. Petition for review and application for stay denied
S137968 B186138 Second Appellate District, Division Five	7-ELEVEN INC. v. A.B.C. Petition for review and application for stay denied
S137988 H029375 Sixth Appellate District	ALLEN v. S.C. (PEOPLE) Petition for review and application for stay denied
S138035 H029411 Sixth Appellate District	TOSHIBA v. S.C. (LEXAR MEDIA) Petition for review and application for stay denied
S128504 A095644 First Appellate District, Division Three	MARTIN (GARRETT) ON H.C. Petition for writ of habeas corpus denied
S128615	WILLIAMS (DAVID EARL) ON H.C. Petition for writ of habeas corpus denied
S128655	MCCRAY (KIMOTHY R.) ON H.C. Petition for writ of habeas corpus denied
S128685	TURNER (CRAIG A.) ON H.C. Petition for writ of habeas corpus denied
S128797	BAPTISTE (KENNETH) ON H.C. Petition for writ of habeas corpus denied
S129566	SNIDER (JAMES L.) ON H.C. Petition for writ of habeas corpus denied

S129967

LAMBAKIS (RONALD L.) ON H.C.
Petition for writ of habeas corpus denied

S131388

PITTS (JEORALD) ON H.C.
Petition for writ of habeas corpus denied

S134402

McCRAY (KIMOTHY) ON H.C.
Petition for writ of habeas corpus denied

(See *In re Clark* (1993) 5 Cal.4th 750; *In re Robbins* (1998) 18 Cal.4th 770, 780; *In re Swain* (1949) 34 Cal.2d 300, 304; *In re Waltreus* (1965) 62 Cal.2d 218.)

S134494

IRVIN (STEVEN D.) ON H.C.
Petition for writ of habeas corpus denied

S136616

JUDGE (WILLIAM) ON H.C.
Petition for writ of habeas corpus denied

S137313

MIRANDA (IGNACIO) ON H.C.
Petition for writ of habeas corpus denied

S137337

WILLIAMS (BRIAND R.B.) ON H.C.
Petition for writ of habeas corpus denied

S137420

MCKELLY (MICHAEL) ON H.C.
Petition for writ of habeas corpus denied

(See *In re Swain* (1949) 34 Cal.2d 300, 304;
People v. Duvall (1995) 9 Cal.4th 464, 474.)

S137434

VELASQUEZ (RAYMOND J.) ON H.C.
Petition for writ of habeas corpus denied

(See *In re Dixon* (1953) 41 Cal.2d 756; *In re Swain* (1949) 34 Cal.2d 300, 304; *People v. Duvall* (1995) 9 Cal.4th 464, 474.)

S137441

BRYANT (ERIC B.) ON H.C.
Petition for writ of habeas corpus denied

(See *In re Robbins* (1998) 18 Cal.4th 770, 780; *In re Clark* (1993) 5 Cal.4th 750; *In re Miller* (1941) 17 Cal.2d 734; *In re Dixon* (1953) 41 Cal.2d 756; *In re Waltreus* (1965) 62 Cal.2d 218.)

S137531

SMITH (DENNIS J.) ON H.C.
Petition for writ of habeas corpus denied

(See *In re Clark* (1993) 5 Cal.4th 750; *In re Miller* (1941) 17 Cal.2d 734; *In re Swain* (1949) 34 Cal.2d 300, 304.)

S137557

SMITH (DENNIS J.) ON H.C.
Petition for writ of habeas corpus denied

(See *In re Clark* (1993) 5 Cal.4th 750; *In re Robbins* (1998) 18 Cal.4th 770, 780; *In re Miller* (1941) 17 Cal.2d 734.)

S137693

BRADVICA (DAVID A.) ON H.C.
Petition for writ of habeas corpus denied

(See *In re Swain* (1949) 34 Cal.2d 300, 304; *People v. Duvall* (1995) 9 Cal.4th 464, 474.)

S137698

GRIEGO (HENRY) ON H.C.
Petition for writ of habeas corpus denied

(See *In re Robbins* (1998) 18 Cal.4th 770, 780.)

S137727

JACKSON (WALTER) ON H.C.
Petition for writ of habeas corpus denied

(See *In re Swain* (1949) 34 Cal.2d 300, 304; *People v. Duvall* (1995) 9 Cal.4th 464, 474.)

S137740FKADU (BERIHU H.) ON H.C.
Petition for writ of habeas corpus denied

(See *In re Swain* (1949) 34 Cal.2d 300, 304;
People v. Duvall (1995) 9 Cal.4th 464, 474.)

S137752BOYER (DANIEL) ON H.C.
Petition for writ of habeas corpus denied**S137775**VICE (HERBERT C.) ON H.C.
Petition for writ of habeas corpus denied**S137937**SINGLETON (DUANE A.) ON H.C.
Petition for writ of habeas corpus denied

(See *In re Clark* (1993) 5 Cal.4th 750; *In re Swain* (1949) 34 Cal.2d 300, 304; *In re Miller* (1941) 17 Cal.2d 734.)

S138004FORMAN (BRENT) ON H.C.
Petition for writ of habeas corpus denied

(See *People v. Duvall* (1995) 9 Cal.4th 464, 474.)

S137416B173276 Second Appellate District,
Division SevenSHERMAN, MARRIAGE OF
Publication ordered (case closed)

On the recommendation of the Court of Appeal pursuant to rule 978 of the California Rules of Court, the Reporter of Decisions is directed to publish the opinion in the above-entitled appeal in the Officials Reports. (See rule 978(c)(2), California Rules of Court.)

S130809TROTTER (STACY) ON H.C.
Extension of time granted

to November 25, 2005 for respondent to file the informal response.

S134920

B173649 Second Appellate District,
Division One

AUERBACH v. ASSESSMENT APPEALS BOARD
Extension of time granted

to December 12, 2005, to file appellant's
answer brief on the merits.

S012279

PEOPLE v. LUCAS (DAVID A.)
Motion for access to sealed record granted

Respondent's "Application to Obtain Copy of
Sealed Record," filed on August 17, 2005, is
granted. The clerk is directed to photocopy
pages 13006 to 13016 of volume 69 of the
reporter's transcript, and transmit them to
respondent. On the court's own motion, the
clerk is directed to unseal these pages for all
purposes.

S075699

PEOPLE v. MARTINEZ (MIGUEL)
Motion for access to sealed record granted

Good cause appearing therefor (see Cal.
Rules of Court, rule 31.2(a)(4)), respondent's
"Application for Copies of Sealed
Transcript," filed on July 22, 2005, is granted.
The clerk is directed to photocopy pages 531-
538 of the sealed reporter's transcript and
transmit them to respondent. On the court's
own motion, the clerk is directed to unseal
pages 531-538 of the sealed reporter's
transcript.

S037302

PEOPLE v. HINTON (ERIC L.)
Request for judicial notice granted

Respondent's request for judicial notice, filed
March 24, 2003, is granted.

S085578

PEOPLE v. MCDOWELL (CHARLES E.)
Order filed

Due to clerical error, the order filed in the
above case is amended to read as follows:
Upon request of appellant for appointment

of counsel, Tamara P. Holland is hereby appointed to represent appellant Charles Edward McDowell, Jr., for the direct appeal in the above automatic appeal now pending in this court.

S104807

COFFMAN (CYNTHIA) ON H.C.
Motion denied

Petitioner's "Application for Stay of Habeas Corpus Proceedings Pending Resolution by Superior Court of Petitioner's Motion for Post-Conviction Discovery Pursuant to Penal Code Section 1054.9," filed on August 2, 2004, is denied.

S124464

A102399 First Appellate District,
Division Five

PACIFIC LUMBER v. WATER RESOURCES
Request for judicial notice granted

Appellant's requests for judicial notice, filed July 8, 2004 and November 12, 2004, are granted.

S126773

B159750 Second Appellate District,
Division Two

PEOPLE v. SALAS
Orders filed (2)

- (1) The request of counsel for appellants to allow two counsel to argue on behalf of appellants at oral argument is granted.
- (2) The request of appellants to allocate to Neil Rosenbaum 20 minutes and Gerald Serlin 10 minutes of appellants' 30-minute allotted time for oral argument is granted.

S129896

D042645 Fourth Appellate District,
Division One

PEOPLE v. CALHOUN
Request denied

Defendant Lawrence Lamont Calhoun's August 16, 2005 "Application for Bail or Release on Own Recognizance Pending Appeal, and/or Motion for Calendar Preference" is denied.

S131030

B170252 Second Appellate District,
Division Six

BROWN & YANA, MARRIAGE OF
Orders filed (2)

- (1) The request of counsel for appellant to allow two counsel to argue on behalf of appellant at oral argument is granted.
- (2) The request of appellant to allocate to John F. Hodges 10 minutes and Judy Wood 10 minutes of the 20-minute allotted time for oral argument is granted. Counsel's arguments shall be limited to the issue on which review was granted.

S135173

SCHAEFER ON DISCIPLINE
Petition for writ of review denied; disbarred

Petition for writ of review DENIED.
It is hereby ordered that JOHN M.
SCHAEFER, State Bar No. 35705, be
disbarred from the practice of law and that his
name be stricken from the roll of attorneys.
Costs are awarded to the State Bar.

B185788 Second Appellate District,
Division Six

COUNTRY MEAT MARKET v. WCAB
Order filed

The above-entitled matter, now pending in the Court of Appeal, Second Appellate District, is transferred from Division Six to Division Eight.

